

AMENDED IN ASSEMBLY APRIL 26, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 57

Introduced by Assembly Member Wright

December 4, 2000

An act to add Section 332.3 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Wright. Electrical energy: contracts.

(1) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission with respect to the purchase of electricity.

This bill would state findings and declarations regarding long-term contracts for the purchase of electricity and would state the intent of the Legislature with respect to the procurement of electricity by an electrical corporation. The bill would declare the intent of the Legislature that an electrical corporation, as defined, shall achieve and maintain a portfolio of electricity supplies for its bundled service customers.

This bill would amend the act to require the commission to reflect in bundled service rates, and to deem reasonable without engaging in a reasonableness review, any contract entered into by an electrical corporation in accordance with guidelines set forth in the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that the customers of an electrical corporation, as defined in Section 218 of the Public Utilities Code, will benefit by increased reliance on long-term contracts, and less reliance on the spot markets, including the day-ahead and real time markets. This increased reliance on long-term purchases will bring needed price stability at reasonable prices to all consumers and may attract new electric supply into the State of California.

(b) It is the intent of the Legislature to do all of the following:

(1) Provide guidance for the procurement of electricity by an electrical corporation.

(2) Establish standards under which the procurement of electricity by an electrical corporation will be deemed reasonable.

(3) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's electricity procurement contracts, practices, and related expenses.

SEC. 2. Section 332.3 is added to the Public Utilities Code, to read:

332.3. (a) It is the intent of the Legislature that, ~~no later than July 1, 2001~~ *when an electric corporation resumes purchasing of electricity on behalf of retail and end-use customers*, an electrical corporation shall achieve and thereafter maintain on an annual basis a portfolio of electric supply commitments for its bundled service customers, which shall consist of forward contracts sufficient to supply no less than 50 percent, and no greater than 95 percent forward contracts, with terms up to 10 years in duration, of that portion of the electrical corporations's supply portfolio that was not already being supplied from generating resources owned or contracted for by electrical corporations. As long as an electrical corporation maintains such a portfolio mix, its portfolio may not be subject to reasonableness reviews by the commission.

(b) The commission shall reflect in bundled service rates, and deem reasonable without a reasonableness review, any contract entered into by an electrical corporation in accordance with the guidelines set forth in this section or any contract, for which, upon application therefor by the electrical corporation, the commission has granted approval. For all of those contracts, there may be no

1 after-the-fact review, whether based on the individual contracts,
2 the electrical corporation's portfolio, or otherwise.

3 (c) The commission shall deem standard forward contracts, *as*
4 *described in paragraphs (1) and (4) of subdivision (c)*, reasonable
5 if one or more of the following applies:

6 (1) Those contracts are entered into pursuant to or compared
7 with the results of an open, competitive bidding process. One
8 acceptable form for an open, competitive bid is a request for
9 proposals (RFP). The commission shall deem reasonable any
10 contract the price of which is within the range of prices that is no
11 higher than the lowest 25 percent of the bids received during that
12 particular RFP or other bidding process. An RFP shall be
13 considered open and competitive if the request was distributed to
14 at least 15 potential suppliers, and notice of the RFP was posted on
15 the electrical corporation's website concurrently with the
16 distribution of the RFP or the procurement through electricity
17 exchanges or brokerage services which may also include
18 electronic platforms with access to more than 15 potential
19 suppliers.

20 (2) The price of the contract is lower than the electrical
21 corporation's then-current volume-weighted portfolio cost as
22 calculated by the electrical corporation. However that portfolio
23 cost shall be determined excluding any generation assets retained
24 by the electrical corporation.

25 (3) The contract was entered into by the electrical corporation
26 through the Independent System Operator, *the Department of*
27 *Water Resources*, or any other market or power exchange
28 recognized by the commission.

29 (4) The contract was executed by the electrical corporation
30 before January 1, 2001.

31 (d) The commission shall deem a nonstandard contract for
32 electricity reasonable if the contract price is below the electrical
33 corporation's then-current volume-weighted portfolio cost as
34 calculated by the electrical corporation, assuming an equivalent
35 level of annual production. However, that portfolio cost shall be
36 determined excluding any generation assets retained by the
37 electrical corporation. The fuel costs associated with those
38 contracts are deemed reasonable. As used in this subdivision, the
39 term "nonstandard contract for electricity" includes a tolling
40 agreement, a peaking service agreement, a load-following service

1 agreement, a capacity agreement, an exchange agreement, an
2 ancillary services agreement, or another agreement for a service
3 that is not traded on an exchange.

4 (e) Electrical corporations may enter into financial and other
5 contracts to moderate the price risk associated with long-term
6 forward contracts, including natural gas used to produce power
7 under these contracts. Those contracts may be gas-based or
8 electricity-based. Those contracts and the premiums paid by the
9 electrical corporations for those contracts also shall be deemed
10 reasonable if the contracts are entered into by the electrical
11 corporation for the purpose of hedging the price risk associated
12 with the electrical corporation's procurement portfolio.

13 (f) A purchase transaction entered into between an electrical
14 corporation and a renewable energy developer shall be deemed
15 reasonable if contract prices to the electrical corporation for
16 renewable energy are less than 115 percent of the average of the
17 lowest bid established pursuant to paragraph (1) of subdivision (c).

18 (g) Under the protection of Section 583, each electrical
19 corporation shall file quarterly with the commission its long-term
20 forward contracts and financial contracts, together with an
21 explanation of how those contracts meet the guidelines set forth in
22 this section. The commission may verify the accuracy of these
23 submissions for the sole purpose of ensuring compliance with
24 these guidelines.

25 (h) The commission shall adopt a ratemaking mechanism that
26 ensures that the existing bundled service customers as of the date
27 an electrical corporation enters into a bilateral contract to serve
28 those customers remain responsible for, and pay, their
29 proportionate share of the electrical corporation's obligations
30 under each contract.

